ADDENDUM NO. 2

TO CONSTRUCT PERFORMING ARTS CENTER (PAC) RE-ROOF TEXAS A&M UNIVERSITY CORPUS CHRISTI 6300 OCEAN DR, CORPUS CHRISTI, TX 78412 SSC PROJECT NO: 1518045

ISSUED SEPTEMBER 27, 2018

This addendum modifies the original Solicitation Documents for the Project issued on September 12, 2018 and any previously issued addenda. The items in this addendum shall govern the work, taking precedence over previously issued specifications and drawings governing the items mentioned.

PREPARED BY

[Signature]

REGISTERED ARCHITECT STATE OF TEXAS

SSC Job No. 1518045

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A. QUESTIONS AND CLARIFICATIONS:

1. Clarification - Specification Section 00 7200.

   A. SSC Uniform General and Supplemental Conditions refers SSC Insurance Requirements to an attached Master Agreement. SSC Sample Master Agreement and Insurance requirements are attached to this addendum.

2. Question: Are roofing products not listed in the specifications as pre-approved / basis-of-design allowed?

   Response: The SBS Modified Roofing Specification Sections are performance specifications based on two separate Basis-of-Design (BOD) FM RoofNav Assemblies: one for concrete roof deck areas and one for metal roof deck areas. There is nothing in the specification that excludes products that are not part of the BOD RoofNav assembly; however they would require the contractor to submit alternative RoofNav Assemblies for both roof assemblies in the project that meet the structural design requirements listed in the documents.

3. Question: Is a Bid Bond required and if so what is the format and percentage?

   Response: A Bid Bond is not required.

4. Question: Does the university have any as-builts or archived submittals for the existing panels? Finding the exact texture may be difficult. It will also be extremely difficult to find a matching texture in 316L with a no. 3 polish for alternates 2 and 3?

   Response: As-builts are available, but they do not adequately convey the aluminum fascia panel material surface texture – an existing sample should be taken for this (there are several places along the edge of the missing fascia panels where a sample can easily be collected) to ensure as close of a match as possible for the base bid work. For Alternates No. 2 and No. 3 in stainless steel: textured stainless steel is not required. Refer to differences between details 1/A3.01 and 6/A3.01.

5. Question: Existing fascia and soffit panels are shop-fabricated and probably not part of a tested assembly - if they are tested, does the university have documentation available?

   Response: The existing fascia / soffit panel assembly is not assumed to be a tested assembly. There is no testing documentation available for the existing fascia / soffit assemblies.
B. CHANGES TO SPECIFICATIONS:

1. Revised Sections: N/A
2. Added Sections: N/A

C. CHANGES TO DRAWINGS:

1. Revised Drawings: N/A
2. Added Drawings: N/A

END OF ADDENDUM NO. 2
MASTER AGREEMENT CONTRACT

THIS MASTER AGREEMENT CONTRACT, ("Master Agreement") made and entered into this ___ day of _____________, 2014, by and between ______________with principal offices at:

(address)___________________________________________________________

(hereinafter called "Contractor") and Southeast Service Corporation, a Tennessee corporation d/b/a SSC Service Solutions ("ODR") with principal office at:

1500 Liberty Ridge Drive, Suite 210, Wayne, PA 19087.

WITNESSETH:

WHEREAS, ODR was retained by The Texas A&M University System ("Owner"), to manage certain projects on the Owner's campus as the Owner’s Designated Representative and which ODR has requested and Contractor has agreed to perform certain tasks on certain projects as more specifically set forth in a work order in the form attached hereto and marked Exhibit “A” attached hereto ("Project Work").

WHEREAS, This Master Agreement sets forth certain obligations and terms and conditions applicable to all the Project Work.

WHEREAS, In addition, the terms and conditions set for the herein, attached hereto and made are part hereof are also certain Uniform General and Supplemental Conditions ("UGSC"), the ODR Special Conditions ("SC"), if applicable, and certain statements, illustrations and drawings ("Drawings"), specific material requirements, processes, time tables, schedules and specific requirements for the manner in which the Project Work will be performed or conducted ("Specifications"), scopes of work and any addenda and other documents attached hereto as Exhibit “B” ("Scope Documents") (collectively this Master Agreement, the UGSC, the SC, Drawings, Specifications and Scope Documents shall be the “Contract Documents”)

1. CONTRACTOR’S INVESTIGATION AND REPRESENTATIONS. The Contractor hereby acknowledges and certifies that it has examined the site and has carefully read and examined the Contract Documents, which identify the Project Work to be performed and/or managed by the Contractor, and the Contractor agrees that it is and will be bound by and will fully, faithfully and punctually perform all of the provisions thereof insofar as it relates or pertains in any manner to the Project Work to be performed by the Contractor or any part thereof including, but not limited to, all labor, material, services, reports, tests, working drawings, permits, certificates, indemnities and guarantees specified, indicated, inferred or reasonably intended to be part of the Contract Documents. The Project Work to be performed by the Contractor is to be done under the direction of ODR to the satisfaction of the Owner and ODR, and the decision of ODR as to true construction and meaning of the Contract Document in respect to the Project Work to be performed by Contractor shall be final and binding upon the Contractor. The Contractor further acknowledges that it has checked the approaches and access to the jobsite, nearby structures,
telephone and power lines, and all governmental laws ordinances and regulations relating to the use of streets, highways and alleyways, which may in any manner restrict, interfere with, delay or otherwise affect the delivery, storage, handling, hoisting and rigging of any and materials and equipment and the Contractor agrees that no additional charge will be made by reason of any applicable laws, ordinances, regulations or restrictions (“Applicable Laws”).

2. **SCOPE OF WORK.** ODR and the Contractor agree that the primary and principal materials to be furnished and the primary and principal Work to be done by the Contractor are as set forth in and contemplated in a completed Work Order in the form attached hereto and marked as Exhibit A, inclusive of all its terms and conditions being hereby incorporated herein and made a part of this Project Work.

   **No Minimum Amount of Work.** ODR makes no minimum representations regarding the amount or type of services, if any, that the Contractor will be asked to provide Owner during the term of this MASTER AGREEMENT. It is expressly understood that ODR is under no obligation to request any services from Contractor and no minimum amount of work is required or contemplated under this MASTER AGREEMENT. All service requests will be made by ODR on an as-needed basis, subject to future agreement on the scope of work and the fee.

3. **APPLICABILITY OF THE MASTER AGREEMENT.** Contractor agrees to be bound to ODR by all the terms and conditions of the Contract Documents, above referenced, so far as the terms relate to the Project Work specified herein and to assume toward ODR all of the obligations and responsibilities that ODR has by the said Contract Documents assumed toward Owner. All terms and conditions contained in the Contract Documents are hereby incorporated herein, by operation of law, or as required to be placed in the Contract Documents, as if they were specifically written herein.

4. **PERFORMANCE BY CONTRACTOR.**
   
   **(a)**  Time is of the essence in the performance of all Project Work and the Contractor shall perform all of the requirements hereof with all possible dispatch and shall execute all Project Work in such a manner as not to delay any other contractor or ODR also performing or concurrently performing Project Work. The Contractor shall follow the progress of the project, be prepared to commence and complete the Project Work when notified, keep up with the general progress of the whole Project Work and shall be responsible for all damages caused by its delay, including liquidated damages or actual damages assessed under the terms of the Contract Documents which are attributable to work under this MASTER AGREEMENT.

   **(b)**  Should the Contractor's performance of the Project Work be delayed by any acts of a subcontractors or suppliers not retained by Contractor, and provided that ODR is able to obtain an extension of time under the Contract Documents, the Contractor shall receive an equitable extension of time for the performance the Project Work (not to exceed the time received by ODR from the Owner) but shall not be entitled to any increase in contract price, damages or additional compensation as a consequence of such delays, unless the Owner pays for such delay’s increases costs directly attributable to Contractor. Within five (5) days after the commencement of any delay caused by the Owner, its subcontractors or suppliers, the Contractor shall notify ODR in writing of any delays for which the Owner is responsible, in sufficient time so that its claim may be timely processed against the Owner administratively per the terms of the Contract Documents.

   **(c)**  Contractor shall furnish adequate on-site supervision for its Project Work. Contractor shall designate an on-site representative who shall have authority to legally bind Contractor to all matters, contractually or otherwise.
(d) Contractor shall not start work until all Contract Documents have been executed and all insurance certificates have been submitted, reviewed and accepted by ODR as required by Section 10 herein, at which time a Notice to Proceed will be issued. The Contractor shall notify the ODR prior to commencing any Project Work.

5. PAYMENTS TO CONTRACTOR.

(a) ODR agrees to pay the Contractor for the timely and proper performance of the Project Work identified in the applicable Work Order, in accordance with the provisions of the Contract Documents, and, if applicable, subject to any additions and deductions for changes as agreed upon in writing and signed by both parties.

(b) The Contractor shall furnish ODR with a construction schedule and tabulated breakdown of the Project Work covered herein, listing items of the Project Work in sufficient detail to facilitate progress billing payment requests to be checked and verified by ODR as the Project Work progressed. ODR shall approve or disapprove the billing breakdown within ten (10) days of its receipt of completed invoice with all required supporting backup. If all required back up is not provided with the billing breakdown, only the portion of the invoice with sufficient billing breakdown will be paid.

(c) Provided Contractor’s rate of progress and general performance are satisfactory to ODR, and provided that the Contractor is in full compliance with each and every provision of the Contract Documents, ODR will make partial payments to the Contractor in an amount equal to ninety-five percent (95%) of the submitted progress billing; however, as a condition precedent to the obligation of ODR to make said payments, the following provisions must be met:

1. Contractor shall submit its request for progress payment conforming to the tabulated breakdown and schedule of values attached therewith referenced in subparagraph (b) above and representing a true and accurate reflection of the Work completed during the immediately preceding month or such other immediately preceding period as directed by ODR. Said progress billing request shall be in duplicate copies, and on the form attached hereto and made a part hereof as Exhibit "B". The request must reach ODR’s local office not later than the 20th day of each month, in order to be considered timely. Untimely billings shall be processed in the next payment.

2. The Contractor’s Affidavit and Waiver of Lien form included herein as Exhibit “C” must be properly executed by an authorized representative of Contractor.

3. ODR shall have been paid by the Owner.

(d) No partial payment, or certificate therefor, shall constitute acceptance or approval by ODR of any of the Project Work or material for which the progress payment is made. No progress payment shall constitute a waiver by ODR of any right to require fulfillment of all the terms of the Contract Documents. Neither the final payment nor any partial payment, nor any certificate for either, shall constitute acceptance by ODR of defective work or improper materials or if any element of Contractor’s performance is determined to be at variance with the Contract Documents.

(e) Final payment, inclusive of retention, shall be made within thirty (30) days of completion of the entire Project Work, acceptance of the same by the Owner, and as a condition precedent, receipt of final payment by ODR from the Owner.

(f) Payments otherwise due to the Contractor may be withheld by ODR on account of defective work performed by the Contractor and not remedied, claims filed by third parties arising out
of the Contractor's work, or upon the presentation of reasonable evidence indicating the probability of the filing of such claims, failure of the Contractor to make payments to its subcontractors or materialmen for work done or material furnished, or a reasonable doubt that the Project Work can be completed for the balance then owing the Contractor.

(g) Without prejudice to any other rights specified herein or given to ODR by operation of law, ODR specifically reserves the right to write joint checks to Contractor and its material suppliers and/or subcontractors, if in ODR's judgment it is necessary to do so in order to insure payment to the materialmen and/or subcontractors. Additionally, it is specifically agreed that ODR possesses the right of setoff relative to any monies due and owing ODR by the Contractor, from whatever source.

6. CHANGES. ODR may at any time, by written change order and without notice to surety, make changes in the Project Work herein contracted for and Contractor shall proceed with the work as directed. If said changes cause an increase or decrease in the cost of performance or in the time required for performance by Contractor, an equitable adjustment shall be mutually agreed upon and the Contract Documents shall be amended in writing with a change order to reflect the price adjustment accordingly. Nothing herein contained shall excuse the Contractor from proceeding with the prosecution of the work as changed.

7. DISPUTES. The Contractor agrees to make any claims to ODR for damages or additional compensation alleged extra work, changed conditions or any other grounds in the same manner as provided in the Contract Documents, and in such time as will enable ODR, if it so chooses to do so, to present such claims to the Owner for payment or recognition. ODR will not be liable to the Contractor on account of any claim not timely or properly presented nor, unless and until it is allowed by the Owner, and then only to such extent as is allowed by the Owner. Notwithstanding anything to the contrary contained herein, no interruption, cessation, postponement or delay in the cause whatsoever, including disputes, shall relieve the Contractor of its duty to timely perform or give rise to any right to damages or additional compensation from ODR except to the extent that reimbursement is confirmed in writing by ODR and additional monies are received from the Owner therefor with respect to the work performed by Contractor hereunder and the Contractor hereby expressly waives and releases any other or further right to damages or additional compensation.

If ODR, in its sole discretion, determines NOT to submit the Contractor's claim to the Owner for resolution the following disputes resolution procedure shall be employed:

(a) If the claim cannot be resolve by job-site representatives within 14 days of it submission to ODR, the claim shall be referred to each party's senior representative who shall meet and confer within 14 days of the claims referral.

(b) If the senior representatives are unable to reach a resolution they shall jointly select mediator who is knowledgeable of construction and Texas law. The parties shall share equally the cost and expense of the mediator. The dispute shall be mediated within 30 days of selection and retention of the mediator.

(c) The party initially submitting the dispute for mediation shall notify the other party of its selection of a contactor (an "Independent Contractor"). The other party shall notify the first party of its selection of an Independent Contractor within 15 days of its receipt of the first selection. The two Independent Contractors shall select a third Independent Contractor within 30 days and the parties may submit such information as they deem appropriate to the third Independent Contractor for consideration in
connection with the disputed matters. The determination by such third Independent Contractor shall be binding upon the Parties.

(d) Nothing in the Contract Documents shall prevent or be construed as a waiver of ODR’s right to seek redress on any disputed matter in a court of competent jurisdiction.

(e) If applicable, nothing in the Contract Documents shall waive or be construed to waive the state’s sovereign immunity.

8. **TERMINATION.** It is understood that the basic assumption underlying the mutual obligations and responsibilities entered into by the parties to the Contract Documents are the continued performance with respect to the Project Work that exists between ODR and the Owner. If, for any reason, the contract between ODR and the Owner is breached, rescinded or terminated, ODR shall have the right to immediately terminate this Master Agreement. In the event of Contractor’s non-compliance with any Applicable Laws, this Master Agreement may be cancelled, terminated or suspended in whole or in part. ODR shall have the right to allocate a fair and equitable share of any monies received from the Owner, but in no event shall ODR be obligated to Contractor for any anticipatory profits or any damages incurred by Contractor as a result of the termination of this Master Agreement. Contractor agrees that ODR’s decision or determination regarding the pro rata share of any monies received from the Owner as damages or compensation for said breach, rescission or termination of the Project Work shall be final and conclusive and that Contractor shall have no claim or cause of action against ODR for any reason or greater amount.

9. **INDEMNITY.** To the fullest extent permitted under state law, Contractor shall indemnify and save harmless ODR and Owner for any and all Losses (as defined below), of whatever nature and however caused, which results from or arises out of Contractor’s or its officers, directors, shareholders, employees, agents, subcontractors, vendors, suppliers, representatives, affiliates, successors, assigns, or any person for whom Contractor is responsible for, (x) acts or omissions or (y) breach of Applicable Laws. “Loss(es)” includes any claim, including third party claims, liability, loss, demand, suit, cause of action, settlement payment, cost and expense (including reasonable attorney’s fees and investigation expenses), interest, award, judgment, damages (including punitive damages), diminution in value, liens, fines, fees and penalties. In the event of any such Losses arising out of the Contract Documents, ODR shall have the right to withhold from any payments due or to become due to the Contractor an amount sufficient, in its sole discretion, to protect and indemnify it from any and all such Losses.

(a) The Contractor shall protect, indemnify, defend and save harmless ODR and Owner from and against all Losses, arising out of any infringement or claim of infringement on any trademarks, copyrights, trade secrets, patents, licenses, contractual rights or other proprietary rights of any other party in the use of any articles or equipment furnished or required to be furnished or performance of any services by the Contractor under the Contract Documents.

(b) **LIMITATION OF LIABILITY.** ODR AND OWNER WILL NOT BE LIABLE TO CONTRACTOR, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THEORY OF RECOVERY, EVEN IF ODR HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.
10. **INSURANCE.** The Contractor shall carry insurance in the types and amounts indicated in this Section 10 for the duration of the Master Agreement. The required insurance shall include coverage for Owner’s property in the care, custody and control of Contractor prior to construction, during construction and during the warranty period. The insurance shall be evidenced by delivery to ODR of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions prior to the start of the Project Work. Upon request, ODR, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements. The Contractor shall update all expired policies prior to submission for monthly payment and during the contract warranty period. Failure to update policies shall be reason for withholding of payment until renewal is provided to ODR.

(a) The Contractor shall provide and maintain the insurance coverage with the minimum amounts described below until the end of the warranty period unless otherwise stated herein. Failure to maintain insurance coverage, as required, is grounds for Suspension of Work for Cause pursuant to Article 14 of the UGSC. The Contractor will be notified of the date on which the Builder’s Risk insurance policy may be terminated through Substantial Completion (defined in the UGSC) notices, acceptance notices and/or other means as deemed appropriate by ODR.

(b) Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to ODR, and shall include:

   (i) **Worker’s Compensation.** Workers’ Compensation Insurance with limits as required by the Texas Workers’ Compensation Act, with the policy endorsed to provide a waiver of subrogation as to the Owner and ODR and Employer's Liability insurance of not less than:
      - $2,000,000 each accident
      - $2,000,000 disease each employee
      - $2,000,000 disease policy limit

   (ii) **General Liability Coverage.** Commercial General Liability Insurance, including Independent Contractor's liability, Products and Completed Operations and Contractual Liability, covering, but not limited to, the liability assumed under the indemnification provisions of the Contract Documents, fully insuring Contractor's (or subcontractors) liability for bodily injury and property damage with a combined bodily injury (including death) and property damage minimum limit of:
      - $1,000,000 per occurrence
      - $10,000,000 general aggregate
      - $1,000,000 products and completed operations
      - $1,000,000 personal and advertising injury
      - $1,000,000 damage to premises

Coverage shall be on an "occurrence" basis.

The policy shall include coverage extended to apply to completed operations and explosion, collapse, and underground hazards. The policy shall include
endorsement CG2503 Amendment-Aggregate Limits of Insurance (Per Project) or its equivalent.

(iii) Asbestos Coverage. Asbestos Abatement Liability Insurance, including coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos containing materials. *This requirement applies if the Project Work includes asbestos containing materials.

The combined single limit for bodily injury and property damage will be a minimum of $1,000,000 per occurrence or each claim if on a claims-made basis. Coverage may be evidenced through either professional liability or pollution liability.

*Specific Requirement for Claims-Made Form: Required period of coverage will be determined by the following formula: Continuous coverage for life of the JOW, plus one (1) year (to provide coverage for the warranty period), and an extended discovery period for a minimum of five (5) years which shall begin at the end of the warranty period.

If the Master Agreement is for asbestos abatement only, the All-Risk Builder's Risk or All-Risk Installation Floater (b)(iii) is not required.

(iv) Automobile Coverage. Comprehensive Automobile Liability Insurance, covering owned, hired, and non-owned vehicles, with a combined bodily injury (including death) and property damage minimum limit of $5,000,000 each claim. No aggregate shall be permitted for this type of coverage. Such insurance is to include coverage for loading and unloading hazards.

(v) Builder’s Risk Coverage (when required by request of ODR). All Risk Builder’s Risk Insurance (or All Risk Installation Floater for instances in which the work involves solely the installation of equipment). Coverage shall be All-Risk, including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood, Earthquake, Theft and damage resulting from faulty workmanship, design or materials. If Builder’s Risk, limit shall be equal to the greater of (x) 100 percent of the Master Agreement Project Work or (y) ten million dollars ($10,000,000.00). If applicable, installation floater, limit shall be equal to 100 percent of the Project Work contract sum. The policy shall be written jointly in the names of the Owner, ODR, the Contractor, and subcontractors shall be named as additional insured. The policy shall have endorsements as follows:

(A) This insurance shall be primary as to coverage and not contributing insurance with any permanent insurance maintained on the property.

(B) This insurance shall not contain an occupancy clause suspending or reducing coverage should the Owner occupy, or begin beneficial occupancy before the Owner has accepted final completion.
(C) Loss, if any, shall be adjusted with and made payable to the Owner as Trustee for the insureds as their interests may appear; the right of subrogation under the Builder’s Risk policy shall be waived as to the Owner and ODR. The Owner and ODR shall be named as Loss Payee. For renovation projects or projects that involve portions of work contained within an existing structure, refer elsewhere in the SC for possible additional Builder’s Risk insurance requirements.

(vi) Umbrella Coverage. "Umbrella" Liability Insurance. The Contractor shall obtain, pay for and maintain umbrella liability insurance, during the contract term, insuring the Contractor (or subcontractor) for an amount specified in the Master Agreement, but not less than $10,000,000 per occurrence aggregate, that provides coverage at least as broad as and applies in excess and follows form of the primary liability coverages required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

(vii) Crime Coverage. Commercial Crime Insurance with minimum limit of $500,000 per occurrence with third party coverage.

(viii) Professional Liability to include coverage for Architects and Engineers If applicable, Architects and Engineers Professional Insurance with minimum limits of $2,000,000 in the aggregate and $1,000,000 each claim.

(c) Policies must include the following clauses, as applicable:

(i) This insurance shall not be canceled, materially changed, or non-renewed until after thirty (30) days prior written notice has been given to ODR.

(ii) It is agreed that the Contractor’s insurance shall be deemed primary with respect to any insurance or self-insurance carried by the Owner or ODR for liability arising out of operations under the Contract Documents with the Owner and ODR.

(iii) The Comprehensive Automobile Liability, Commercial General Liability, professional, and pollution coverage insurance shall list The Texas A&M University System Board of Regents for and on behalf of Owner and ODR, their respective officials, directors, employees, representatives, and volunteers as additional insureds as respects operations and activities of, or on behalf of the named insured performed under contract with the Owner. The additional insured status must cover completed operations as well.

(iv) The workers’ compensation, employers’ liability policy, Comprehensive Automobile Liability and Commercial General Liability insurance will provide a waiver of subrogation in favor of Owner and ODR.
(d) Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall require each subcontractor performing Project Work under the Master Agreement, at the subcontractor's own expense, to maintain during the term of the Master Agreement, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. The Contractor shall obtain and monitor the certificates of insurance from each subcontractor in order to assure compliance with the insurance requirements. The Contractor must retain the certificates of insurance for the duration of the Master Agreement plus five (5) years and shall have the responsibility of enforcing these insurance requirements among its subcontractors. The Owner shall be entitled, upon request and without expense, to receive copies of these certificates.

(e) By requiring such minimum insurance, ODR shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Master Agreement. Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Contractor is not relieved of any liability or other obligations assumed pursuant to the Contract Documents by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

(f) Workers' Compensation Insurance Coverage must meet the statutory requirements of Tex. Lab. Code, §401.011(44), and those specific to construction projects for public entities as required by Tex. Lab. Code, §406.096.

11. **LIENS AND CLAIMS.** The Contractor shall fully protect, indemnify, defend and save harmless ODR and the Owner from and against any and all liens, bond claims, and/or claims of laborers, mechanics, materialmen and subcontractors of the Contractor hereunder or of the laborers, mechanics, materialmen or subcontractors of any subcontractor of the Contractor hereunder. In the event that any such lien or bond claim shall be filed or asserted, the Contractor shall, whether under the Contract Documents or from any other source.

12. **PERFORMANCE AND PAYMENT BONDS.** Contractor agrees to promptly remove or discharge such lien or claim. If the Contractor shall fail to so remove or discharge the same within five (5) days after receipt of written notice from ODR, ODR shall have the right to remove or discharge the same by bonding, payment or otherwise. The amount of any payment, costs and/or expenses made or incurred by ODR in connection with the removal or discharge of any such lien or claim may be deducted by ODR from any payment or amounts then due or thereafter to become due to the Contractor. The premium of such bond is to be paid by the Contractor. ODR, at its option, may terminate, in whole or in part, and cancel this contract without cost to ODR upon Contractor’s failure to deliver such properly executed bonds to ODR and Contractor agrees to indemnify and hold harmless ODR from any and all damages suffered by ODR as a result of Contractor’s failure to provide such a bond.

13. **CONSTRUCTION BONDS.** The Contractor is required to tender to ODR, prior to commencing any work, performance and payment bonds, as required below:

   (a) Performance Bond. A Performance Bond is required if the payment hereunder is in excess of $100,000. The Performance Bond is solely for the protection of the Owner and ODR. The Performance Bond is to be for the total Project Work to guarantee the faithful performance of the Project Work in accordance with the Contract Documents. The form of the bond shall be approved by ODR. The Performance Bond shall be effective through the Contractor’s warranty period.
(b) Payment Bond. A Payment Bond is required if the payment hereunder is in excess of $25,000. The Payment Bond is to be for the total Project Work and is payable to the ODR solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the Contractor or its subcontractor. The form of the bond shall be approved by ODR.

(c) Bond Requirements. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to the ODR, on the ODR’s form, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than 10 percent of the surety’s capital and surplus, the ODR may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State of Texas. A reinsurer may not reinsure for more than 10 percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State of Texas, the Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to the ODR.

(d) Power of Attorney. Each bond shall be accompanied by a valid power-of-attorney issued by the surety company, attached to the bond, and signed and sealed with the corporate embossed seal, authorizing the attorney in fact who signs the bond to commit the surety to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.

(e) Bond Indemnification. IF FOR ANY REASON A STATUTORY PAYMENT OR PERFORMANCE BOND IS NOT HONORED BY THE SURETY, THE CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD THE ODR AND OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.

(f) Furnishing Bond Information. ODR shall furnish certified copies of the Payment Bond and the related documentation to any qualified person seeking copies who complies with Texas Gov’t Code, §2253.026.

(g) Claims on Payment Bonds. Claims on Payment Bonds must be sent directly to the Contractor and his surety in accordance with Tex. Gov’t Code § 2253.041. All Payment Bond claimants are cautioned that no lien exists on the funds unpaid to the Contractor on any work, and that reliance on notices sent to the ODR may result in loss of their rights against the Contractor and/or his surety. The ODR is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.

(h) Payment Claims when Payment Bond not Required. The rights of subcontractors regarding payment are governed by Tex. Prop. Code, §§53.231 – 53.239 when the value of the work between the ODR and the Contractor is less than $25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to the Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.

(i) Sureties. Sureties shall be listed on the US Department of the Treasury’s Listing of Approved Sureties stating companies holding Certificates of Authority as acceptable sureties on Federal Bonds and acceptable reinsuring companies (Department Circular 570) and have a rating of A- or better with A.M. Best Company.
14. WORK COORDINATION. If in the execution or performance of the Contract Documents, manufacturers working drawings, samples, lists, acts, schedules, shop drawings, etc. are required, Contractor shall promptly, in accordance with instruction from ODR, furnish and obtain approval for the use of these drawings prior to commencing any Project Work. Any measurement necessary for fabrication or installation of Contractor’s work shall be the responsibility of Contractor unless ODR assumes this responsibility in writing. If the Contractor deems that services or work to which its work is to be applied or affixed is unsatisfactory or unsuitable, written notification of said condition shall be given to ODR before proceeding to take remedial action, otherwise Contractor shall be fully and solely responsible and liable for any and all expenses, loss or damage resulting from said condition and ODR shall be relieved of all liability in connection therewith.

15. CLEAN UP. Contractor will clean up and haul away all debris occasioned by the work done by it hereunder and will leave the building and premises clean. If, after twenty-four (24) hours' notice by the ODR representative to the Contractor's representative at the site of the work, the Contractor has not diligently proceeded with the cleanup work, ODR may, at its option, perform said work and withhold from monies due the Contractor a reasonable amount for said services.

16. WARRANTY.

(a) Contractor’s General Warranty and Guarantee. Contractor warrants to ODR that all Work is executed in accordance with the Contract, complete in all parts and in accordance with approved practices and customs, and of the required finish and workmanship. Contractor further warrants that unless otherwise specified, all materials and equipment incorporated in the Work under the Contract are new. ODR may, at its option, agree in writing to waive any failure of the Work to conform to the Contract, and to accept a reduction in the Contract price for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, Contractor’s obligation to perform and complete the Work in accordance with the Contract Documents is absolute and is not waived by any inspection or observation by ODR, A/E or others, by making any progress payment or final payment, by the use or occupancy of the Work or any portion thereof by Owner, at any time, or by any repair or correction of such defect made by Owner or ODR.

(b) Warranty Period. Except as may be otherwise specified or agreed, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one year from the date of Substantial Completion of the Work. If Substantial Completion occurs by phase, then the warranty period for that particular Work begins on the date of such occurrence, or as otherwise stipulated on the Certificate of Substantial Completion for the particular Work.

(c) Limits on Warranty. Contractor’s warranty and guarantee hereunder excludes defects or damage caused by:

(i) Modification or improper maintenance or operation by persons other than Contractor, Subcontractors, or any other individual or entity for whom Contractor is not responsible, unless Owner or ODR is compelled to undertake maintenance or operation due to the neglect of Contractor.

(ii) Normal wear and tear under normal usage after acceptance of the Work by Owner.

(d) Events Not Affecting Warranty. Contractor’s obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of defective Work that is not in accordance with the Contract Documents or a release of Contractor’s obligation to perform the Work in accordance with the Contract Documents:
(i) Observations by ODR and/or A/E;
(ii) Recommendation to pay any progress or final payment by A/E;
(iii) The issuance of a certificate of Substantial Completion or any payment by ODR to Contractor under the Contract Documents;
(iv) Use or occupancy of the Work or any part thereof by Owner;
(v) Any acceptance by ODR or any failure to do so;
(vi) Any review of a Shop Drawing or sample submittal; or
(vii) Any inspection, test or approval by others.

(e) Separate Warranties. If a particular piece of equipment or component of the Work for which the Contract requires a separate warranty is placed in continuous service before Substantial Completion, the warranty period for that equipment or component will not begin until Substantial Completion, regardless of any warranty agreements in place between suppliers and/or Subcontractors and Contractor. ODR will certify the date of service commencement in the Substantial Completion certificate.

(i) In addition to Contractor’s warranty and duty to repair, Contractor expressly assumes all warranty obligations required under the Contract for specific building components, systems and equipment.

(ii) Contractor may satisfy any such obligation by obtaining and assigning to ODR a complying warranty from a manufacturer, supplier, or Subcontractor. Where an assigned warranty is tendered and accepted by ODR which does not fully comply with the requirements of the Contract, Contractor remains liable to ODR on all elements of the required warranty not provided by the assigned warranty.

(f) Correction of Defects. Upon receipt of written notice from Owner, or any agent of Owner designated as responsible for management of the warranty period, of the discovery of a defect, Contractor shall promptly remedy the defect(s), and provide written notice to Owner and designated agent indicating action taken. In case of emergency where delay would cause serious risk of loss or damage to Owner, or if Contractor fails to remedy within thirty (30) days, or within another period agreed to in writing, Owner/ODR may correct the defect and be reimbursed the cost of remedying the defect from Contractor or its surety.

(g) Certification of No Asbestos Containing Materials or Work. Contractor shall ensure compliance with the Asbestos Hazard Emergency Response Act (AHERA– 40 C.F.R § 763-99(7)) from all Subcontractors and materials suppliers, and shall provide a notarized certification to Owner/ODR that all equipment and materials used in fulfillment of their Contract responsibilities are non Asbestos Containing Building Materials (ACBM). This certification must be provided no later than Contractor’s application for Final Payment.

17. TAXES. Contractor shall pay all social security and other taxes imposed upon it as an employer in connection with the performance of this Master Agreement, and will furnish evidence, when required by ODR, showing that all such payments required to be made have been paid. Contractor shall pay all local, state and federal taxes in connection with its work under this Master Agreement. Contractor agrees to protect, indemnify, defend and hold harmless ODR and Owner from and against all damages incurred by ODR by the failure of the Contractor to discharge the duties imposed upon Contractor by this paragraph and by law.
18. **SAFETY.** Contractor agrees to comply with all applicable provisions of the Occupational Safety and Health Act of 1970, any standards promulgated pursuant thereto, and any State specific requirements. Contractor agrees to indemnify and hold harmless ODR from the expense of payment (including the proposed penalty) of any penalty or proposed assessed against ODR as the result of an unsafe conditions or standard violation created by or arising from Contractors’ action, inaction or work. Additionally, Contractor agrees to immediately remedy and abate any unsafe condition or standard violation upon its discovery by any party or upon notification of such by ODR.

19. **EMPLOYER REQUIREMENTS.** During the performance of this Master Agreement, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices of the Contractor's undertakings hereunder. The Contractor shall comply with all current Executive Orders regarding Equal Opportunity requirements.

(b) The Contractor shall perform background checks on all personnel performing Project Work under this Agreement prior to performing Project Work including a minimum county level criminal records searches seven years from date of hire, National Sex Offender searches, Social Security traces, employment history verifications, and, if applicable, professional or trade license verifications and any site specific requirements of Owner. Contractor shall comply with all Federal, State and local employment and immigration laws, terms, provisions, regulations and rulings (“Employment and Immigration Laws”) and any person assigned to perform Services hereunder shall meet employment eligibility requirements of Employment and Immigration Laws. Upon receipt of a written request from ODR or Owner, Contractor shall certify in writing as to Contractor's compliance with Employment and Immigration Laws. Contractor will be responsible for all employee-related tax, levy, benefits, health insurance, pension, withholding, accrual, payment, reporting and other obligations of employers for its employees under Applicable Law (“Employee Obligations”). Contractor will indemnify and hold harmless ODR and Owner from and against all Losses which arise in any manner out of or in connection with any one or more aspects of Contractor’s respective Employee Obligations or violation of any Employment and Immigration Laws.

20. **PAYROLL REPORTING.** At ODR’s option, certified payroll records may be required. If requested by ODR, duplicate copies must be in ODR’s office within five (5) calendar days after end of the payroll week. Regardless of the reporting requirement, the Contractor is required to pay its employees, as a minimum, the prevailing legal minimum wage scale or the minimum wage scale for the surrounding area, if any, whichever is the higher scale.

21. **SUBCONTRACTING, ASSIGNMENTS.** Contractor shall not let, assign or transfer this Master Agreement, any part thereof or any interest therein, without the written consent of ODR.

(a) The Contractor and ODR agree as follows with respect to the assignment of such payments as may be due or as may become due under this Master Agreement: 1) The Contractor make no assignment of the proceeds hereof without the prior written consent of ODR; 2) In no instance shall
ODR be obligated to any assignee of the Contractor on account of payments at any time made in good faith under any assignment and/or erroneously or inadvertently made to the assignor; 3) ODR shall in no instance be liable to any assignee of the Contractor for any amount in excess of the net sums owing Contractor hereunder after first deducting any amounts for which Contractor may otherwise be obligated or indebted; 4) By making an assignment of the proceeds hereof the Contractor waives any claim against ODR resulting from ODR’s continued payment to the assignees or former assignees, notwithstanding notification to ODR of termination of any said assignment; and 5) By making an assignment of the proceeds hereof the Contractor agrees to assume full liability for the conveyance to assignees of any payments mistakenly, inadvertently or otherwise made or addressed to Contractor and Contractor agrees to defend and hold harmless ODR from claims or causes of action of any assignee related to this Master Agreement.

22. MISCELLANEOUS PROVISIONS.

(a) This Master Agreement shall be binding upon and enure to the benefit of the parties respective successors, assigns, heirs, administrators, executors and legal representatives; provided, however, that nothing in this section shall be construed to authorize the Contractor to make an assignment or transfer prohibited by Section 21 of the Master Agreement.

(b) In the event of a conflict or inconsistency between the terms set forth in the Contract Documents, the conflict shall be resolved in favor of the interpretation which affords greater rights or benefits upon the ODR.

(c) The paragraph titles are for convenience only in locating information and in no way alter or limit the text of the provisions of this Master Agreement.

(d) No provision contained in this Master Agreement shall create or give to third parties any claim of action against ODR or the Contractor beyond such as may legally exist in the absence of such provision.

(e) This Contract shall be construed under the laws of the State of Texas and venue in any suit involving this Contract shall be in Brazos County, Texas.

IN WITNESS WHEREOF the parties hereto have caused this Master Agreement to be duly executed the day and year first above written.

Southeast Service Corporation  
*d/b/a SSC Service Solutions*  
CONTRACTOR

Company: ____________________________  

By: __________________________________  

Signature: ____________________________  

Title: ________________________________  

By: __________________________________  

Signature: ____________________________  

Title: ________________________________
EXHIBIT "A"

SCOPE OF WORK

WORK ORDER NO.______________

The Contractor agrees to furnish all necessary management, supervision, labor, materials, supplies, equipment, plant, services, sundries, appurtenances, engineering (if required by the contract), diligently and fully perform all those portions of the Project Work described as follows and all in accordance with the MASTER AGREEMENT CONTRACT, dated ____________, between Southeast Service Corporation d/b/a SSC Service Solutions and ___________("Contractor"). The work shall commence on or before _______________ and be substantially complete on or before _________________.

PRICING:

Attach:

Scope/Statement of Work
Drawings
Specifications
Addenda
Other Documents As Required
EXHIBIT "B"
APPLICATION FOR PAYMENT

TO: Southeast Service Corporation

WORK ORDER/PROJECT NUMBER:

APPLICATION FOR PAYMENT NUMBER:

NAME: (Contractor)

ADDRESS:

We hereby apply for payment of $_________________ on the account of contract for:

(type of work)

As per terms of our contract for work performed from__________ to __________ on subject project for Texas A&M as follows:

| 1. Amount of Initial Contract | $     |
| 2. Approved Change Orders (Net Changes to Contract) | $     |
| 3. Initial Contract Plus Approved Change Orders To Date (Current Contract Amount) | $     |
| 4. Approved Work Completed To Date (_______%) | $     |
| 5. Value of Materials Stored On Site (If Allowable By Contract) | $     |
| 6. TOTAL GROSS AMOUNT DUE TO DATE | $     |
| 7. Less ______ % Retainage | $     |
| 8. Total Earned to Date Less Retainage | $     |
| 9. Amount of Previous Pay Applications/Payments | $     |
| 10. Less Other Deductions Per Attached | $     |
| 11. CURRENT PAYMENT DUE | $     |
| 12. Balance to Finish Including Retainage | $     |

**NOTE:** Before this pay application can be processed, the CONTRACTOR’S AFFIDAVIT AND WAIVER OF LIEN MUST BE COMPLETED.

**CONTRACTOR**

By:__________________________________________________

Signature:____________________________________________

Title:_______________________________________________
EXHIBIT "C"

CONTRACTOR'S AFFIDAVIT AND WAIVER OF LIEN

STATE OF _____________________, COUNTY OF _____________________, to wit:_______________________

being first duly sworn, deposes and says: that he makes this Affidavit on behalf of __________("Contractor"), who entered into a contract to furnish labor, materials and construction services for the construction of Work Order No_____________ for Southeast Service Corporation, d/b/a SSC Service Solutions, as owner's designated representative of The Texas A&M University System, said construction hereinafter referred to as "Project"; that, excluding the amount billed herewith, the said Contractor has received full payment for all labor, materials and services provided and committed for the aforementioned contract up to and including the date of this Affidavit; that all of the subcontractors, laborers and men with whom or with which said Contractor has contracted for services, labor or materials in the construction, alteration or repair of any improvements located on the above described premises have been fully paid for all labor, materials and services provided and committed for as of the date of this Affidavit, that the undersigned has no notice of any claim, demand, lien or right of lien of such subcontractors, laborers, or materialmen, against the above described premises; that all indebtedness of the Contractor to said subcontractors, and all indebtedness of said subcontractors to their subcontractors, laborers and materialmen, up to and including the date of this Affidavit have been fully discharged; and that the foregoing statements are true and correct to the best of the undersigned's knowledge, information and belief.

Furthermore, in consideration of payments previously received on said Project and other good and valuable considerations paid to the undersigned, receipt of which is hereby acknowledged, the undersigned does hereby waive, release and relinquish any and all liens, claims and right to lien which the undersigned now has against the above described premises, any improvements located thereon, or any payment bond posted by Contractor, for all labor (including general supervision) performed on, and materials furnished to, the above premises up to and including the date of this Affidavit. The undersigned acknowledges that all payments received on account of the above referenced contract have been and are accepted in full satisfaction of the liens or right to lien waived hereunder irrespective of the form or forms of such payment. Furthermore, the Contractor agrees to save, protect and hold harmless the Owner, Contractor and Contractor's surety, if any, their successors and assigns, against any liability for costs and expenses (including attorneys' fees) growing out of or arising from or suffered by any of them on account of claims made for items herein represented as being paid and discharged.

Contractor:

By:________________________________________
Signature____________________________________
Title:________________________________________

STATE OF _____________________, COUNTY OF _____________________ to wit:

I HEREBY CERTIFY that on this ______________ day of , 20_____, before the undersigned, a Notary Public of the State of ______________ in and for the County aforesaid, personally appeared ______________________ and, after first being duly sworn acknowledged the foregoing Affidavit and Waiver of Lien to be his act and that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public:____________________________________
My Commission Expires:___________________________
Notary's Printed Name:_____________________________
Certificate of Insurance Requirements

**COVERAGE FOR ALL CONTRACTS**

General Liability:
Each Occurrence: $1,000,000
Damage to Premises: $1,000,000
Personal & Advertising Liability: $1,000,000
General Aggregate: $2,000,000
Products and Completed Operations: $1,000,000

Automobile Liability:
Combined Single Limit: $1,000,000

Umbrella Liability:
Each Occurrence/Aggregate: $5,000,000

Workers Compensation and Employers’ Liability:
Workers Comp: Statutory
Employer’s Liability: $1,000,000 (each accident/each disease)

Employee Fidelity/Commercial Crime:
Limit: $500,000 with a 3rd party endorsement

**CONSTRUCTION CONTRACTS ONLY**

Builders Risk:
Value of the project (if applicable)

Professional Liability:
General Aggregate: $2,000,000 (if applicable)
Each Occurrence: $1,000,000 (if applicable)

Asbestos Coverage:
Limit: $1,000,000 (if applicable)

**ARCHITECTS AND ENGINEERS CONTRACTS ONLY**

Professional Liability:
General Aggregate: $2,000,000 (if applicable)
Each Occurrence: $1,000,000 (if applicable)

Address for the Certificate Holder:
SSC Service Solutions
1845 Midpark Rd
Knoxville, TN 37921
The following additional endorsements must be attached to the policy:

- Commercial General, Automobile Liability and Workers Compensation policies shall contain provisions that the insurance companies waive the rights of recovery and subrogation against Southeast Service Corporation d/b/a SSC Service Solutions and The Texas A&M University System, and their respective affiliates, directors, officers, employees, shareholders, and agents.

- Southeast Service Corporation d/b/a SSC Service Solutions and its affiliates, directors, officers, employees, shareholders, and agents and Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System shall be named as additional insureds on a primary and noncontributory basis with respect to its Commercial General and Automobile Liability policies.